

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0346**

State of Minnesota,
Respondent,

vs.

Tashawn Antionette Thomas,
Appellant.

**Filed January 23, 2023
Affirmed
Slieter, Judge**

Hennepin County District Court
File No. 27-CR-21-13195

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mary F. Moriarty, Hennepin County Attorney, Linda M. Freyer, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Reyes, Judge; and Frisch, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellant argues that the district court abused its discretion by refusing to grant her a downward dispositional departure from her presumptive executed prison sentence based upon her particular amenability to probation. Because the district court carefully

considered appellant's departure motion and the information and arguments presented, it acted within its discretion by imposing an executed sentence within the presumptive range. We affirm.

FACTS

In November 2021, appellant Tashawn Antionette Thomas pleaded guilty to aiding an offender as an accomplice after the fact to second-degree intentional murder, admitting that she lied to law enforcement to hide her involvement in the murder of her boyfriend.

During sentencing, Thomas moved for a downward dispositional departure, arguing that she was particularly amenable to probation because she had “shown remorse and a respectful attitude,” had “been cooperative in her efforts to take responsibility,” had “the support of her family and motivation of caring for her young children,” had “always sought employment,” and had “a good work history.” Thomas's criminal history score was zero, the severity level of her offense was nine, and her presumptive sentence was a range of 74 to 103 months' imprisonment. Minn. Sent'g Guidelines 4.A (2020). The district court denied Thomas's motion for a downward dispositional departure, concluding that she was not particularly amenable to probation, and imposed a sentence of 90 months' imprisonment. Thomas appeals.

DECISION

We review the district court's sentencing decision for an abuse of discretion. *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014); *State v. Larson*, 473 N.W.2d 907, 908 (Minn. App. 1991). “The district court must order the presumptive sentence provided in the sentencing guidelines unless substantial and compelling circumstances warrant a

departure.” *State v. Pegel*, 795 N.W.2d 251, 253 (Minn. App. 2011) (quotation omitted). We will affirm a presumptive sentence if “the record shows that the sentencing court carefully evaluated all the testimony and information presented,” even if reasons for a departure exist. *State v. Johnson*, 831 N.W.2d 917, 925 (Minn. App. 2013) (quotation omitted), *rev. denied* (Minn. Sept. 17, 2013); *State v. Bertsch*, 707 N.W.2d 660, 668 (Minn. 2006). “[A]n explanation is not required when the court considers reasons for departure but elects to impose the presumptive sentence.” *State v. Van Ruler*, 378 N.W.2d 77, 80 (Minn. App. 1985). Only in a “rare” case will we reverse the district court’s refusal to depart from a presumptive sentence. *State v. Walker*, 913 N.W.2d 463, 468 (Minn. App. 2018) (quoting *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981)).

When considering a dispositional departure, the district court focuses on the defendant as an individual. *State v. Heywood*, 338 N.W.2d 243, 244 (Minn. 1983). A defendant’s particular amenability to probation may justify a dispositional departure. *Soto*, 855 N.W.2d at 308. The supreme court has explained that “particular” in this context means “exceptional” or “distinctive among others of the same group,” and “particularly” means “especially” or “specifically.” *Id.* at 309 (quotation omitted).

Thomas contends that she is particularly amenable to probation and, therefore, the district court abused its discretion by denying a downward dispositional departure. We disagree.

First, “[a] reviewing court may not interfere with the sentencing court’s exercise of discretion, as long as the record shows the sentencing court carefully evaluated all the

testimony and information presented before making a determination.” *Pegel*, 795 N.W.2d at 255 (quotation omitted).

As required by *Pegel*, the record indicates that the district court “read carefully all [of] the submissions,” including the presentence investigation, and heard a statement from the victim’s sister, the arguments of counsel, and statements from Thomas. Therefore, we “may not interfere with the sentencing court’s exercise of discretion” to impose the presumptive sentence. *Id.* (quotation omitted).

Second, “the district court has discretion to impose a downward dispositional departure if a defendant is particularly amenable to probation, but it is not required to do so.” *State v. Olson*, 765 N.W.2d 662, 664-65 (Minn. App. 2009). Relevant factors for determining whether the defendant is particularly amenable to probation include the defendant’s age, prior criminal record, remorse, cooperation, attitude in court, and support of friends and family. *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982).

The district court found that Thomas did not cooperate with law enforcement because “she chose not to provide” them with information to assist in identifying the murder suspect and obtaining potential evidence earlier in the investigation. Additionally, the district court found that Thomas lacked remorse, stating that “[s]he’s remorseful that she’s sitting here today but not about her actual actions” and Thomas “took no responsibility” for her conduct in the presentence investigation when she stated that she “does not feel like she did anything criminal in this case.” The district court acknowledged Thomas’s “great work history” as a personal care assistant but noted that Thomas is “not allowed to work in that field anymore” due to her conviction. The district court also

considered two domestic-assault charges against Thomas, one from before the events leading to the charges in the present matter and one from after the charges.

Thus, the district court acted within its discretion by declining to grant the downward dispositional departure. This is not the “rare” case that would warrant a reversal of the district court’s refusal to depart from a presumptive sentence. *Walker*, 913 N.W.2d at 468 (quotation omitted).

Affirmed.